

United States Senate

August 9, 2018

Timothy J. Sloan
CEO and President
Wells Fargo & Company
420 Montgomery Street
San Francisco, CA 94104

Elizabeth A. Duke
Chair, Board of Directors
Wells Fargo & Company
420 Montgomery Street
San Francisco, CA 94104

Dear Mr. Sloan and Ms. Duke:

I am writing to you in regards to Wells Fargo's disclosure that the bank incorrectly denied loan modifications to 625 customers, and approximately 400 of those customers lost their homes as a result. The minimal amount of information available about this development was disclosed in the company's most recent 10-Q filing on August 3, 2018.

As noted in the 10-Q form, an internal review of a mortgage loan modification underwriting tool identified a miscalculation that led to 625 wrongly denied loan modification requests between April 2010 and October 2015, and approximately 400 foreclosures. The error occurred in a tool Wells Fargo uses to determine "whether a customer qualified for a mortgage loan modification pursuant to the requirements of government-sponsored enterprises (such as Fannie Mae and Freddie Mac) and the U.S. Department of Treasury's Home Affordable Modification Program (HAMP)."¹ Apparently the error was corrected in October 2015, but Wells Fargo has not yet explained why it is only now disclosing the impact on its customers.

The filing also states that Wells Fargo has set aside \$8 million to remediate harms suffered by these customers, but there is no information about how Wells Fargo arrived at this figure or how it will conduct this remediation. And, according to the company, "[t]his effort to identify other instances in which customers may have experienced harm is ongoing, and it is possible that we may identify other areas of potential concern." In other words, there may be more customers who were denied loan modifications or lost their homes as a result of Wells Fargo's error. HAMP was created specifically to help struggling homeowners avoid foreclosure,² so it is deeply troubling to learn so many years after the fact that Wells Fargo's errors could have prevented homeowners from seeking relief or worse, resulted in foreclosures.

It is hard to overstate the impact of a foreclosure on people's lives. In addition to causing displacement and housing instability, foreclosures have a devastating ripple effect. Foreclosures increase financial insecurity and economic hardship, they cause stress and trauma, and they can lead to related health problems.³ Foreclosures destroy people's credit, which drives up the cost of loans or closes off access to credit for years.⁴ The impact on children is particularly profound and long-lasting. Housing instability harms children's behavioral and social development, health, academic performance, and educational attainment.⁵ It is hard to imagine how Wells Fargo's estimate of \$8 million for remediation would come close to remunerating impacted customers.

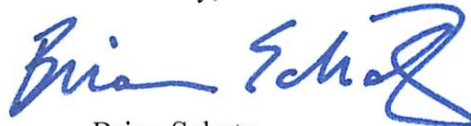
The news of this loan modification error is just the most recent incident in two years of negative developments that show a pattern of consumer harm at Wells Fargo. Beyond the 3.5 million people harmed by fake accounts opened in their names that was revealed in 2016,⁶ Wells Fargo has charged 570,000 customers for auto insurance they did not need, leading to 20,000 customers having their cars seized;⁷ illegally repossessed over 800 service members' cars;⁸ wrongly fined 110,000 mortgage clients;⁹ sold brokerage customers dangerous investments they did not understand;¹⁰ overcharged small businesses for credit card transactions;¹¹ and deceptively sold customers add-on products, such as pet insurance and legal services.¹²

Regulatory agencies have taken several actions¹³—and I hope they continue doing so. In the meantime, I would appreciate your cooperation in answering the following questions related to the recent case. Please provide a response by August 29, 2018.

1. When was the error in Wells Fargo's HAMP underwriting tool first discovered? What actions did Wells Fargo take when the error was first discovered? At that time, did Wells Fargo examine whether the error impacted any customers?
2. What led Wells Fargo to examine the impact of the error on consumers who applied for a loan modification? When did that examination begin and end? When will Wells Fargo know the total number of impacted consumers, if the company does not yet know?
3. Have the impacted customers been notified that they were harmed by Wells Fargo's error? If so, through what medium? Can you confirm that they received this notification? If not, what steps will Wells Fargo take to ensure that impacted customers are aware that they were harmed?
4. Has Wells Fargo notified impacted customers of the funds available to remediate the harm that they suffered? If so, through what medium? What will customers need to do to receive compensation?
5. What methodology did Wells Fargo use to determine that \$8 million should be accrued for remedying customers for the harms that resulted from this error?
6. Please provide details on the specific types of harm that Wells Fargo plans to remediate for the impacted customers, and how Wells Fargo plans to make those determinations.
7. What terms will Wells Fargo require impacted customers to agree to as a condition of accepting remediation from Wells Fargo? Will Wells Fargo ask an impacted customer to waive any legal rights?
8. Through HAMP, the Treasury Department provided financial incentives to participating institutions who modified eligible troubled borrowers' mortgages. Did Wells Fargo receive any incentives for the customers who were impacted by the underwriting tool error? If so, has Wells Fargo returned those financial incentives to the Treasury?

9. Did Wells Fargo report the foreclosures or any missed payments that could be directly or indirectly related to Wells Fargo's errors to credit reporting agencies? If so, will Wells Fargo commit to working with the credit reporting agencies to remove these entries from borrowers' credit reports?
10. Please provide information about the disposition of impacted customers' foreclosed properties. Did Wells Fargo sell these properties? Does Wells Fargo plan to reconnect families to their homes?
11. In the same quarterly report, Wells Fargo announced an increase in its common stock dividend of 10% and a plan to buy back \$24.5 billion of stock. Please explain how the company made the decision to use these funds for shareholder returns ahead of other uses, such as increasing consumer remedies or investing in improving internal investigations and controls. How much is Wells Fargo currently investing or planning to invest in improving internal controls and consumer protection?
12. At this moment, can Wells Fargo say with confidence that it has identified and disclosed all incidents of consumer harm across all of its business units? If not, why not?
13. Should we conclude from the steady stream of news of consumer harm at Wells Fargo that the bank is too big to have meaningful internal controls or policies to prevent violations of law and consumer abuses?

Sincerely,



Brian Schatz
U.S. Senator

¹ Wells Fargo & Company, FY18-Q2 Form 10-Q for the Period Ending June 30, 2018 (Commission file number 001-2979), from U.S. Securities And Exchange Commission, <https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/sec-filings/2018/second-quarter-10q.pdf>, 5

² 12 U.S.C. § 5219a; U.S. Department of Treasury. "Making Home Affordable." U.S. Department of Treasury. January 30, 2017. <https://www.treasury.gov/initiatives/financial-stability/TARP-Programs/housing/mha/Pages/hamp.aspx>

³ Tsai, Alexander. "Home Foreclosure, Health, and Mental Health: A Systematic Review of Individual, Aggregate, and Contextual Associations." PLoS ONE. April 7, 2015. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4388711/>

⁴ The Experian Team. "The Impact of Foreclosure on Your Credit Report." Experian Information Solutions, Inc. August 20, 2013. <https://www.experian.com/blogs/ask-experian/the-impact-of-foreclosure-on-your-credit-report/>

⁵ G Thomas Kingsley, Robin E Smith, and David Price, "The Impacts of Foreclosures on Families and Communities," The Urban Institute, May 2009, <https://www.urban.org/sites/default/files/publication/30426/411909-The-Impacts-of-Foreclosures-on-Families-and-Communities.PDF>.

⁶ Laura J Keller, "Wells Fargo Boosts Fake-Account Estimate 67% to 3.5 Million," Bloomberg.Com, August 31, 2017, 5, <https://www.bloomberg.com/news/articles/2017-08-31/wells-fargo-increases-fake-account-estimate-67-to-3-5-million>.

⁷ Merle, Renae. "Wells Fargo's Scandal Damaged Their Credit Scores. What Does the Bank Owe Them?" The Washington Post. August 18, 2017. https://www.washingtonpost.com/business/economy/in-wake-of-wells-fargo-scandal-whats-to-be-done-about-damaged-credit-scores/2017/08/18/t26d30e6-7c78-11e7-9d08-b79f191668ed_story.html.

⁸ Egan, Matt. "Wells Fargo Illegally Repossessed Another 450 Service Members' Cars." CNN Money. November 14, 2017. <https://money.cnn.com/2017/11/14/investing/wells-fargo-repossess-cars-military/index.html>

⁹ Goyda, Tom. "Wells Fargo Announces Plan to Refund Customers for Mortgage Rate Lock Extension Fees" Wells Fargo. October 4, 2017. <https://newsroom.wf.com/press-release/consumer-lending/wells-fargo-announces-plan-refund-customers-mortgage-rate-lock>.

¹⁰ Ong, Michelle. "FINRA Orders Wells Fargo Broker-Dealers to Pay \$3.4 Million in Restitution and Reminds Firms of Sales Practice Obligations for Volatility-Linked Products." FINRA. October 16, 2017. <https://www.finra.org/newsroom/2017/finra-orders-wells-fargo-broker-dealers-pay-34-million-restitution-and-reminds-firms>.

¹¹ Egan, Matt. "Wells Fargo Accused of Ripping off Mom-and-pop Shops." CNN Money. August 11, 2017. <https://money.cnn.com/2017/08/11/investing/wells-fargo-small-business-credit-card-fees/index.html>.

¹² Koren, James Rufus. "Report: Wells Fargo Will Pay Millions in Refunds for Pet Insurance, Other Add-on Products." Los Angeles Times. July 19, 2018. <http://www.latimes.com/business/la-fi-wells-fargo-refunds-20180719-story.htm>

¹³ See e.g., Bureau of Consumer Financial Protection, "Bureau of Consumer Financial Protection Announces Settlement With Wells Fargo For Auto-Loan Administration and Mortgage Practices," April 20, 2018, <https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-announces-settlement-wells-fargo-auto-loan-administration-and-mortgage-practices/>; FINRA, "FINRA Orders Wells Fargo Broker-Dealers to Pay \$3.4 Million in Restitution and Reminds Firms of Sales Practice Obligations for Volatility-Linked Products," October 16, 2017, <https://www.finra.org/newsroom/2017/finra-orders-wells-fargo-broker-dealers-pay-34-million-restitution-and-reminds-firms>; Wells Fargo & Co., "Wells Fargo Announces Community Reinvestment Act Rating," March 28, 2017, <https://newsroom.wf.com/press-release/corporate-and-financial/wells-fargo-announces-community-reinvestment-act-rating>; Federal Reserve Board, "Responding to Widespread Consumer Abuses and Compliance Breakdowns by Wells Fargo, Federal Reserve Restricts Wells' Growth until Firm Improves Governance and Controls. Concurrent with Fed Action, Wells to Replace Three Directors by April, One by Year End," February 2, 2018, <https://www.federalreserve.gov/newsevents/pressreleases/enforcement20180202a.htm>.